

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SUMONTINEE SRIDEJ,

Petitioner,

v.

ANTONY J. BLINKEN, *et al.*,

Respondents.

Case No. 2:23-cv-00114-ART-BNW

ORDER

Counseled Petitioner Sumontinee Sridej brings this petition for writ of habeas corpus under 28 U.S.C. § 2241 and challenges her extradition to Thailand by the United States of America on charges of fraud. This habeas matter is before the Court for initial review under the Rules Governing Section 2254 Cases.¹ Also before the Court is Petitioner’s motion to amend (ECF No. 8) as well as the parties’ stipulation to a briefing schedule (ECF No. 10).

I. Background

Pursuant to Habeas Rule 4, which is applicable to § 2241 petitions pursuant to Rule 1(b), the assigned judge must examine the habeas petition and order a response unless it “plainly appears” that the petitioner is not entitled to relief. *See Valdez v. Montgomery*, 918 F.3d 687, 693 (9th Cir. 2019). This rule allows courts to screen and dismiss petitions that are patently frivolous, vague, conclusory, palpably incredible, false, or plagued by procedural defects. *Boyd v. Thompson*, 147 F.3d 1124, 1128 (9th Cir. 1998); *Hendricks v. Vasquez*, 908 F.2d 490, 491 (9th Cir. 1990).

Extradition from the United States is governed by 18 U.S.C. § 3184, which confers jurisdiction on any justice or judge of the United States or any authorized

¹ All references to a “Habeas Rule” or the “Habeas Rules” in this order identify the Rules Governing Section 2254 Cases in the United States District Courts.

1 magistrate to conduct an extradition hearing under the
 2 relevant extradition treaty between the United States and the requesting nation.
 3 The extradition court – Magistrate Judge Elayna Youchah – entered her order for
 4 certification of extradition on January 6, 2023. *In the Matter of Extradition of*
 5 *Sumontinee Sridej*, Case No. 2:22-mj-00792-EJY, ECF No. 34. A district court or
 6 Magistrate Judge’s “decision to certify a person as extraditable is not subject to
 7 direct appeal but may be challenged collaterally through habeas corpus review”
 8 pursuant to 28 U.S.C. § 2241. *Prasoprat v. Benov*, 421 F.3d 1009, 1013 (9th Cir.
 9 2005).

10 In an international extradition, the district court’s habeas review of an
 11 extradition order is limited to: (1) whether the extradition court had jurisdiction
 12 to conduct the proceedings as well as personal jurisdiction over the individual
 13 sought; (2) whether the extradition treaty was in force and whether the crime is
 14 an extraditable offense under the relevant treaty’s terms; (3) whether there was
 15 probable cause that the individual committed the crime; and (4) whether the
 16 crime fell within the political offense exception. *Id.* Petitioner sets forth seven
 17 grounds for relief in her abridged petition. (ECF No. 4.) Having conducted an
 18 initial review, the Court will direct a response and enter a scheduling order.

19 **II. Leave to Amend and Scheduling Order**

20 Under Federal Rule of Civil Procedure 15(a)(2), leave to amend should be
 21 freely given “when justice so requires.” But leave to amend “is not to be granted
 22 automatically,” and the court “considers the following five factors to assess
 23 whether to grant leave to amend: (1) bad faith, (2) undue delay, (3) prejudice to
 24 the opposing party, (4) futility of amendment; and (5) whether plaintiff has
 25 previously amended his complaint.” *In re W. States Wholesale Natural Gas*
 26 *Antitrust Litig.*, 715 F.3d 716, 738 (9th Cir. 2013) (internal punctuation omitted).

27 Petitioner seeks leave to amend her abridged habeas petition that she filed
 28 within 14 days of the order of certification of extradition pursuant to Rule 15 of

1 the Federal Rules of Civil Procedure. Respondents request that the Court grant
2 Petitioner's motion to amend and enter the parties' stipulated briefing schedule.
3 The Court finds that none of the factors above weighs against allowing the
4 amendment sought here, especially as Respondents do not oppose Petitioner's
5 motion. The Court therefore grants Petitioner's motion to amend and the parties'
6 stipulated proposed briefing schedule as set forth below.

7 It is therefore ordered that Petitioner's motion to amend (ECF No. 8) is
8 granted.

9 It is further ordered that the parties' stipulation to a briefing schedule (ECF
10 No. 10) is granted. Within 21 days of the date of this order, Petitioner must file
11 her amended petition. Respondents will have 14 days from the date the amended
12 petition is electronically served to answer or otherwise respond to the petition.
13 Petitioner will have 14 days from the date the response is filed and served to file
14 a reply.

15 DATED THIS 10th day of February 2023.

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19 ANNE R. TRAUM
20 UNITED STATES DISTRICT JUDGE
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